

Message Text

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ORIGIN SS-15

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CIAE-00 INR-10 NSAE-00 DODE-00 /051 R

DRAFTED BY S/PTA:DHPOPPER:JK
APPROVED BY S/PTA:AMB. POPPER
NSC - MR. PASTOR
DOD - COL. CARROLL
L - MR. FORTUNE
ARA/PAN - MR. CAMAUR
-----111990 122205Z /20
R 121940Z JUL 78
FM SECSTATE WASHDC
TO AMEMBASSY PANAMA

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E.O. 11652: N/A

TAGS: EWWT, PN, US

SUBJECT: COCO SOLO CONTAINER PORT

REF: PANAMA 4778

FROM POPPER

1. WHEN MINISTER BARLETTA WAS IN WASHINGTON JULY 1, BOB PASTOR AND I HAD SEPARATE TALKS WITH HIM ABOUT HIS DESIRE TO BEGIN CONSTRUCTION WORK AS SOON AS POSSIBLE ON THE PROPOSED CONTAINER PORT AT COCO SOLO. WITHOUT GIVING BARLETTA ANY ASSURANCES, I PROMISED THAT WE WOULD CAREFULLY REVIEW THE SITUATION AND LET HIM KNOW HOW FAR I THOUGHT WE MIGHT GO TOWARD COMPLYING WITH HIS WISHES. WE HAVE NOW COMPLETED THAT REVIEW. UNLESS YOU PERCEIVE OBJECTION, I WOULD
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APPRECIATE YOUR PASSING FOLLOWING MESSAGE FROM ME TO BARLETTA.

2. BEGIN QUOTE: PURSUANT TO OUR CONVERSATION JULY 1 AND YOUR MEETING WITH BOB PASTOR, I HAVE REVIEWED WITH A GROUP OF CONCERNED OFFICIALS THE PROBLEMS INVOLVED IN MAKING AN EARLY START ON THE PROPOSED CONTAINER PORT AT COCO SOLO.

WHILE WE TRIED TO LOOK IMAGINATIVELY AT THE LEGAL AND
POLITICAL OBSTACLES, WE HAVE UNFORTUNATELY BEEN UNABLE TO

FIND A WAY THROUGH THE DIFFICULTIES INVOLVED IN YOUR PRO-
POSAL.

3. QUOTE: SPECIFICALLY, WE CANNOT USE AS A PRECEDENT THE
FRANCE FIELD PROJECT AUTHORIZED UNDER ARTICLE 5 OF THE
1936 TREATY, SINCE THE CONTAINER PORT IS NOT A CUSTOMS
FACILITY. FURTHER, ALTHOUGH THE GOVERNOR OF THE CANAL
ZONE MIGHT BE ABLE TO ISSUE A LAND LICENSE FOR THE PORT,
UNITED STATES JURISDICTION OVER THE AREA WOULD CONTINUE
UNTIL THE NEW TREATY COMES INTO FORCE, AND IT WOULD THERE-
FORE BE NECESSARY FOR THE GOVERNMENT OF PANAMA TO COMPLY
WITH ALL APPLICABLE US LEGISLATION INCLUDING THAT RELATING
TO MINIMUM WAGES, OCCUPATIONAL SAFETY AND HEALTH. WE
BELIEVE IT VERY UNLIKELY THAT, UNDER US LAW, THE GOVERN-
MENT OF PANAMA COULD ESTABLISH ANY CLAIM TO SOVEREIGN
IMMUNITY IN SUCH CIRCUMSTANCES, IN THE UNITED STATES
COURTS.

4. QUOTE: TO OBTAIN RELIEF FROM THE APPLICABLE PRO-
VISIONS OF US LAW WOULD REQUIRE LEGISLATIVE ACTION HERE.
THE PRELIMINARY SOUNDINGS WE HAVE MADE AS TO PROSPECTS IN
THIS REGARD HAVE BEEN DISCOURAGING. EVEN IF WE WERE TO
PROCEED ON THE ASSUMPTION THAT US LAW WOULD BE RIGOROUSLY
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APPLIED, WE ARE CONVINCED THAT THERE WOULD BE A NEGATIVE
AND POLITICALLY HARMFUL RESPONSE. IT IS OUR IMPRESSION
THAT THE CONGRESS WOULD REACT STRONGLY TO ANY PERCEIVED
ATTEMPT TO ADVANCE THE TIME LIMITS, OR ALTER THE PROCE-
DURES, BY WHICH WE ARE BOUND UNDER THE TREATIES AS
APPROVED BY THE US SENATE. THIS COULD HAVE AN ADVERSE
IMPACT ON PROSPECTS FOR PASSAGE OF THE TREATY IMPLEMENTING
LEGISLATION, WITH RESULTS WHICH MIGHT BE UNFORTUNATE FOR
BOTH COUNTRIES.

5. QUOTE: WE DO NOT BELIEVE THAT THESE OBJECTIONS WOULD
BE APPLICABLE TO THE KIND OF PRELIMINARY STUDIES AND
OPERATIONS DISCUSSED IN THE JUNE 30 MEETING BETWEEN PANA-
MANIAN AND US GOVERNMENT REPRESENTATIVES. I REFER TO THE
TAKING OF ONSHORE AND OFFSHORE CORE SAMPLINGS, AND LAND
AND OFFSHORE AREA SURVEYS. WE WOULD ALSO BE INCLINED TO
LOOK SYMPATHETICALLY AT ANY PROPOSAL FOR PRE-POSITIONING
EQUIPMENT OR TAKING OTHER STEPS PREPARATORY TO ACTUAL
CONSTRUCTION WHICH COULD BE UNDERTAKEN WITHOUT GIVING RISE
TO THE LEGAL OR POLITICAL PROBLEMS TO WHICH I HAVE
REFERRED.

6. QUOTE: ACCORDINGLY I SUGGEST THAT DISCUSSIONS CON-
,INUE IN PANAMA, LOOKING TOWARD A DETAILED AGREEMENT
REGARDING STEPS THE PORT AUTHORITY AND THE CANADIAN CON-
TRACTOR MIGHT TAKE AT THIS TIME. WHEN THE PREPARATORY

WORK COVERED IN SUCH AN AGREEMENT NEARS COMPLETION, WE
WOULD BE GLAD TO REEXAMINE THE SITUATION TO DETERMINE
WHETHER FURTHER PROGRESS WOULD BE POSSIBLE AT THAT STAGE.
MOVING AHEAD ALONG THESE LINES WILL HELP US TO ENSURE THAT
ACTUAL ON-SITE CONSTRUCTION CAN BEGIN WITH A MINIMUM OF
DELAY, AT THE EARLIEST APPROPRIATE TIME.

7. QUOTE: I REALIZE THAT THIS ARRANGEMENT IS NOT FULLY
SATISFACTORY. BUT I BELIEVE IT REPRESENTS THE BEST MEANS
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OF GETTING THE CONTAINER PORT INTO OPERATION JUST AS
QUICKLY AS POSSIBLE. WARM REGARDS. END QUOTE.

8. IN APPROVING FOREGOING MESSAGE, STATE AND DEFENSE ARE
AT THE SAME TIME AUTHORIZING USG REPRESENTATIVES IN PANAMA
TO PROCEED WITH NEGOTIATION OF AN AGREED SCHEDULE OF
ACTIVITIES ALONG THE LINES INDICATED. CHRISTOPHER

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